

OCT 21 2020

CLAYTON W WHITEHEAD

Full Name/Prisoner Number

185 DR MICHAEL JENKINSCLAYTON NM 88415 or PO BOX 155 TULANOSA NM 88352

Complete Mailing Address

MITCHELL R. ELFERS

CLERK *lmn*IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICOCivil Action No. 20cv1087 KWR/KK
(To be supplied by the Court)CLAYTON WADEWHITEHEAD 83771

, Plaintiff(s),

Full name(s) and prisoner number(s)
(Do not use *et al.*)

v.

TIMOTHY GARCIA - OTERO COUNTY DETENTION
CENTER, Defendant(s).(Do not use *et al.*)PRISONER'S CIVIL RIGHTS COMPLAINTA. PARTIES AND JURISDICTION

1. CLAYTON W. WHITEHEAD is a citizen of NEW MEXICO who
(Plaintiff) (State)
presently resides at 185 DR MICHAEL JENKINS, CLAYTON NM 88415
(mailing address or place of confinement)
2. Defendant TIMOTHY GARCIA is a citizen of NEW MEXICO
(name of first defendant) (State)
whose address is 1958 PR MIK JR
MANACORDO NM OTERO COUNTY/DETENTION CENTER
88310
and who is employed as C.O. OTERO COUNTY/DETENTION CENTER At the time the claim(s)
(title and place of employment) CENTER

alleged in this complaint arose, was this defendant acting under color of state law?

 Yes No. If your answer is "Yes," briefly explain:

3. Defendant OTERO COUNTY DETENTION CENTER is a citizen of NM
(name of second defendant) (State)

whose address is 1958 DR MIKSR DRIVE ALAMOGORDO 88310

and who is employed as _____ At the time the claim(s)
(title and place of employment)

alleged in this complaint arose, was this defendant acting under color of state law?

Yes No. If your answer is "Yes," briefly explain:

(If more space is needed to furnish the above information for additional defendants, continue on a blank sheet which you should label "A. PARTIES." Be sure to include each defendant's complete address and title.)

(CHECK ONE OR BOTH:)

Jurisdiction is asserted pursuant to 42 U.S.C. § 1983 (for state defendants) or *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971) and 28 U.S.C. § 1331 (for federal defendants).

Jurisdiction also is invoked pursuant to 28 U.S.C. § 1343(a)(3). (If you wish to assert jurisdiction under different or additional statutes, you may list them below.)

B. NATURE OF THE CASE

BRIEFLY state the background of your case. I the defendant was exposed to a

wanton excessive use of force in violation to the 8th Amendment
and the 14th Amendment. When officer Timothy Garcia very forcefully kicked
me even after complying with his orders. See Aditinal page

C. CAUSE OF ACTION

I allege that the following of my constitutional rights, privileges, or immunities have been violated and that the following facts form the basis of my allegations: (If more space is needed to explain any allegation or to list additional supporting facts, continue on a blank sheet which you should label "D. CAUSE OF ACTION.")

Claim I: Clayton W Whitehead was exposed to wanton
excessive use of force, cruel and unusual punishment
in violation to the 8th Amendment and 14th Amendment

Claim III: _____

Supporting Facts: _____

D. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

1. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to the conditions of your imprisonment? Yes No. If your answer is "Yes," describe each lawsuit. (If there is more than one lawsuit, describe the additional lawsuits using this same format on a blank sheet which you should label "E. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF.")

a. Parties to previous lawsuit:

Plaintiff(s): CLAYTON W. WHITEHEAD.

Defendant(s): TIMOTHY GARCIA, OTERO COUNTY DETENTION CENTER

b. Name and location of court and docket number _____

c. Disposition of lawsuit. (For example, was the case dismissed? Was it appealed? Is it still pending?)

Still pending

d. Issues raised: EXCESSIVE USE OF FORCE, ASSAULT, CRUEL UNUSUAL PUNISHMENT

e. Approximate date of filing lawsuit: 11/02/2012 12th JUDICIAL DISTRICT COURT

f. Approximate date of disposition: Still pending N/A

2. I previously have sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part D. Yes No.

If your answer is "Yes," briefly describe how relief was sought and the results. I filed formal and informal complaint of the matter I was never answered or no remedy

3. I have exhausted available administrative remedies. Yes No. If your answer is "Yes," briefly explain the steps taken. Attach proof of exhaustion. If your answer is "No," briefly explain why administrative remedies were not exhausted.

the proof of exhaustion is in my Criminal case file of the charges I received in incident, James Walker was my Attorney in the criminal case

Supporting Facts: (Include all facts you consider important, including names of persons involved, places, and dates. Describe exactly how each defendant is involved. State the facts clearly in your own words without citing legal authority or argument.)

Claim II: _____

Supporting Facts:

B. NATURE OF THE CASE

On, November 15. 2018, at The Otero county Detention center. 1958 Br MIK JR Dr Martin Luther King JR Alamogordo N.M. 88310 I was Assaulted by officer Timothy Garcia. While being prepared for court. There is video footage from the otero County Detention center that shows me being totally compliant and non combative. Officer Garcia kicked my knee very forcefully after I told him I could not spread my legs any wider. HE Then took me to the Ground and TAZed me continuously for about 30 seconds. I never gave officer Garcia any reason to do this to me. I suffered injuries that were later that day addressed. At the hospital as well as extreme permanent damage done to my legal record as well as extreme physical, mental and emotional loss due to this incident, I believe Timothy Garcia and Otero county Detention center Should be held accountable for my loss.

Claim I

ON, November 15, 2018. At the Otero County Detention Center. 1958 Dr Martin Luther King Jr Dr. Alamogordo NM. 88310. I was assaulted by Officer Timothy Garcia. While being prepared for court. There is video from the Otero County Detention center that shows me being totally compliant and non combative. Officer Garcia kicked my left knee very forcefully after I told him I could not spread my legs any wider. After he kicked me he took me to the ground and Tased me for about 30 seconds. I never gave Officer Garcia any reason to do this to me. I suffered injuries that were later addressed at the hospital. I also suffered severe damage to my criminal record as well as extreme physical, mental and emotional loss due to this incident. I believe Timothy Garcia and the Otero County Detention center should be held accountable for this loss.

E. PREVIOUSLY DISMISSED ACTIONS OR APPEALS

1. If you are proceeding under 28 U.S.C. § 1915, please list each civil action or appeal you have brought in a court of the United States while you were incarcerated or detained in any facility that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. Please describe each civil action or appeal. If there is more than one civil action or appeal, describe the additional civil actions or appeals using this same format on a blank sheet which you should label "F. PREVIOUSLY DISMISSED ACTIONS OR APPEALS."

- a. Parties to previous lawsuit:

Plaintiff(s): CLAYTON W WHITEHEAD

Defendant(s): TIMOTHY GARCIA, OTERO COUNTY DETENTION CENTER

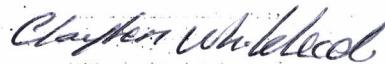
- b. Name and location of court and docket number 12th JUDICIAL COURT OTERO COUNTY, NM, 2020/11/02 AM
D-12/JC-CV-2020-0028
- c. Grounds for dismissal: frivolous malicious failure to state a claim upon which relief may be granted.
- d. Approximate date of filing lawsuit: 8/20/2020
- e. Approximate date of disposition: Still pending

2. Are you in imminent danger of serious physical injury? Yes No. If your answer is "Yes," please describe the facts in detail below without citing legal authority or argument.

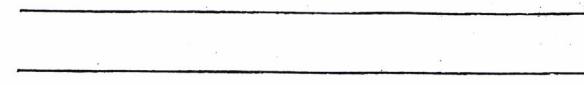
G. REQUEST FOR RELIEF

I request the following relief: I am requesting \$ 2,500, 00⁰⁰ for damages done to my criminal record and to my physical, mental and emotional health.

Prisoner's Original Signature



Original signature of attorney (if any)

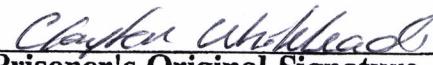


Attorney's full address and telephone

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained in the complaint is true and correct. 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Executed at NENM/DF Clayton CM 88415 on 10/13/2020.
(location) (date)



Clayton Whitlead
Prisoner's Original Signature

Clayton W. Whitehead 83721

85 Dr Michael Jenkins R
Clayton Sun. 8/4/15

RECEIVED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

OCT 21 2020

MITCHELL R. ELFERS
CLERK

U.S. District Court

333 Lomas Blvd., NW Ste. 270

U.S. District Tax
Legal
333 Lomas Blvd., NW Ste.
Albuquerque, NM 87102

Albuquerque, NM
2012-8